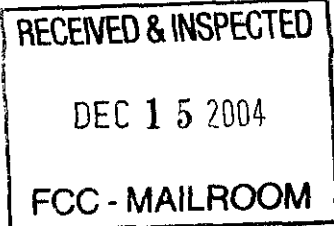


DOCKET FILE COPY ORIGINAL



December 13, 2004

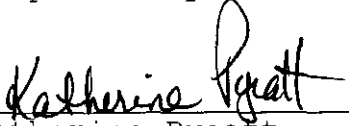
Ms. Marlene Dortch
Office of the Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
12th Street Lobby - TW - A325
Washington, D.C. 20554

Re: Counterproposal
Woodson, Texas (MB Docket No. 04-410)

Dear Ms. Dortch:

Enclosed is an original and four (4) copies of my
Counterproposal for Woodson, Texas.

Respectfully submitted,


Katherine Pyeatt
6655 Aintree Circle
Dallas, Texas 75214
(214) 662-4558 Tele

WoodsonPP

No. of Copies rec'd 04
List ABCDE

RECEIVED & INSPECTED
DEC 15 2004
FCC - MAILROOM

The proposed changes are:

	<u>Current</u>	<u>Proposed</u>
Henrietta, Texas	-----	248A
Chillicothe, Texas	-----	248A
Woodson, Texas	-----	248A
Archer City, Texas	248C2	299C2 [Counterproposal conflict]

Counter proponent respectfully submits that the public interest would be served by allocating Channels 248A to Henrietta, Chillicothe and Woodson, Texas each, as those community's first local services.

HENRIETTA, TEXAS 248A/ 1st service

Henrietta, Texas is the county seat of Clay County and is an incorporated community with a population of 3,264 people.¹ Henrietta has its own fire department, mayor, city hall, police department, post office, library and a number of local churches. Two hundred and six businesses in Henrietta were given a credit rating by Dun & Bradstreet as of November 2002.

Attached hereto is a channel study confirming that Channel 248A can be allocated to Henrietta, Texas consistent with the FCC's FM separation rules provided the change is made at Archer City. See revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1992).

(See, Attachment A) Please note: per Report & Order, DA 03-2468, MB Docket No. 03-116, released July 25, 2003, the

¹ U.S. Census, 2000

FM Table of Allotments for Archer City, Texas was amended to reflect 248C2. (See, Attachment B) Also note: the counterproposal to add Channel 248C at Keller, Texas was dismissed per Report & Order, DA 03-1533, released May 8, 2003. (See, Attachment C) Additionally, note: the petition to add channel 248C1 at Holliday, Texas was withdrawn on November 10, 2004, an effective but not yet final dismissal. (See, Attachment D) And finally note: per Memorandum Opinion and Order, FCC 01-317, released October 26, 2001, page 8, number 18, ". . . . the construction permit for Station KRZB(FM) will expire three years from the release date of this order. Texas Grace must complete construction by that date and timely file an application for a license to cover the authorized facilities. Failure to file a timely license application will result in the automatic cancellation of the KRZB(FM) construction permit." (See, Attachment E) No license to cover has been filed and in fact the 464.8 meter tower at the KRZB construction permit coordinates has not been constructed. Therefore, the permit for Channel 248C2 at Archer City, Texas was automatically forfeited as of October 26, 2004.

Reference coordinates for Channel 248A at Henrietta, Texas

are:

33 49 15 N
98 16 45 W

CHILLICOTHE, TEXAS 248A/ 1st service

Chillicothe, Texas is an incorporated community with a population of 798 people.² Thirty two businesses in Chillicothe have been given a credit rating by Dun & Bradstreet as of November 2002. Chillicothe has its own post office, police department, fire department, mayor and a number of local churches.

Attached hereto is a channel study confirming that Channel 248A can be allocated to Chillicothe, Texas consistent with the FCC's FM separation rules provided the change is made at Archer City. See revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1992). (See, Attachment F) Note: the petition to add Channel 248C1 at Holliday, Texas was withdrawn on November 10, 2004, an effective but not yet final dismissal. (See, Attachment D) Also note: per Report & Order, DA 03-2468, MB Docket No. 03-116, released July 25, 2003, the FM Table of Allotments for Archer City, Texas was amended to reflect 248C2. (See, Attachment B) Additionally, please note: per Memorandum Opinion and Order, FCC 01-317, released

² U.S. Census, 2000

October 26, 2001, page 8, number 18, ". . . the construction permit for Station KRZB(FM) will expire three years from the release date of this order. Texas Grace must complete construction by that date and timely file an application for a license to cover the authorized facilities. Failure to file a timely license application will result in the automatic cancellation of the KRZB(FM) construction permit." (See, Attachment E) No license to cover has been filed and in fact the 464.8 meter tower at the KRZB construction permit coordinates has not been constructed. Therefore, the permit for Channel 248C2 at Archer City, Texas was automatically forfeited as of October 26, 2004. And finally, please note: the counterproposal to add Channel 248C at Keller, Texas was dismissed per Report & Order, DA 03-1533, released May 8, 2003. (See, Attachment C)

Reference coordinates for Channel 248A at Chillicothe, Texas are:

34 10 00 N
99 29 00 W

WOODSON, TEXAS 248A/ 1st service

As was stated in the original petition in the above caption proceeding, Woodson, Texas is an incorporated community with a population of 296 people according to the

2000 U.S. Census. Woodson has its own post office, volunteer fire department, public school system, public library, city hall and a number of local churches.

Attached hereto is a channel study confirming that Channel 248A can be allocated to Woodson, Texas consistent with the FCC's FM separation rules provided the change is made at Archer City. See revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1992). (See, Attachment G) Please note: per Report & Order, DA 03-2468, MB Docket No. 03-116, released July 25, 2003, the FM Table of Allotments for Archer City, Texas was amended to reflect 248C2. (See, Attachment B) Also note: the petition to add Channel 248C1 at Holliday, Texas was withdrawn on November 10, 2004, an effective but not yet final dismissal. (See, Attachment D) Additionally, please note: the counterproposal to add Channel 248C at Keller, Texas was dismissed per Report & Order, DA 03-1533, released May 8, 2003. (See, Attachment C) And finally, please note: per Memorandum Opinion and Order, FCC 01-317, released October 26, 2001, page 8, number 18, ". . . the construction permit for Station KRZB(FM) will expire three years from the release date of this order. Texas Grace must complete construction by that date and timely file an application for a license to cover the authorized facilities. Failure

to file a timely license application will result in the automatic cancellation of the KRZB(FM) construction permit." (See, Attachment E) No license to cover has been filed and in fact the 464.8 meter tower at the KRZB construction permit coordinates has not been constructed. Therefore, the permit for Channel 248C2 at Archer City, Texas was automatically forfeited as of October 26, 2004. Reference coordinates for Channel 248A at Woodson, Texas are

33 00 30 N
99 02 15 W

ARCHER CITY, TEXAS 248C2 to 299C2

In order for Channel 248A to be allotted to Henrietta, Chillicothe and Woodson, the vacant allotment for Channel 248C2 at Archer City, Texas must move to channel 299C2.

Attached hereto is a channel study confirming that Channel 299C2 can be allocated to Archer City, Texas consistent with the FCC's FM separation rules. See revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1992). (See, Attachment H) Note: the petition to add Channel 299C2 at Archer City, Texas was an element of a petition to add Channel 248C1 at Holliday, Texas and was withdrawn on November 10, 2004. (See, Attachment D) Also note: the petition to add Channel 299C3 at Holliday, Texas

was dismissed per FCC letter dated November 3, 2004. (See, Attachment I) Additionally, please note that the counterproposal to add Channel 298C2 at Seymour, Texas was dismissed per Report & Order, DA 03-1533, released May 8, 2003. (See, Attachment C)

Reference coordinates for Channel 299C2 at Archer City, Texas are:

33 32 30 N
98 46 30 W

CONCLUSION

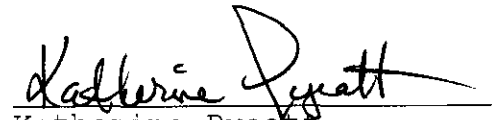
Henrietta, Chillicothe and Woodson are communities which are each deserving a local FM service. The proposed channel 248A in each of these communities will provide additional diversity and an outlet for local self-expression to their residents and therefore are in the public interest. "Local radio stations play an important role in their communities, providing local news, information and entertainment to residents, and generally serving as good corporate citizens in the local community life. This is particularly true in smaller towns, where the radio stations are limited in number. Yet there are still rural areas of our country that do not have even a local radio station."³

³ Statement of Commissioner Kevin J. Martin, MM & O, MM Docket 99-240, released May 20, 2004.

Should this counterproposal for 1st local service to three deserving communities be granted and Channels 248A are allotted to Henrietta, Chillicothe and Woodson, Texas, I will apply for each of these Channel's and after any or all are authorized, I will promptly construct the new facilities authorized to me.

The factual information provided in this counterproposal is correct and true to the best of my knowledge.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Katherine Pyeatt", is written over a horizontal line.

Katherine Pyeatt
6655 Aintree Circle
Dallas, Texas 75214
(214) 662-4558 Tele

cc: Gene A. Bechtel, Law Office of Gene Bechtel, Suite 600, 1050 17th Street, N.W., Washington, D.C. 20036, telephone (202) 496-1289, telecopier (301) 762-0156, attorney for Katherine Pyeatt. It is requested that the Commission and any parties who may file pleadings in the captioned matter serve copies to Mr. Bechtel as well as Ms. Pyeatt.

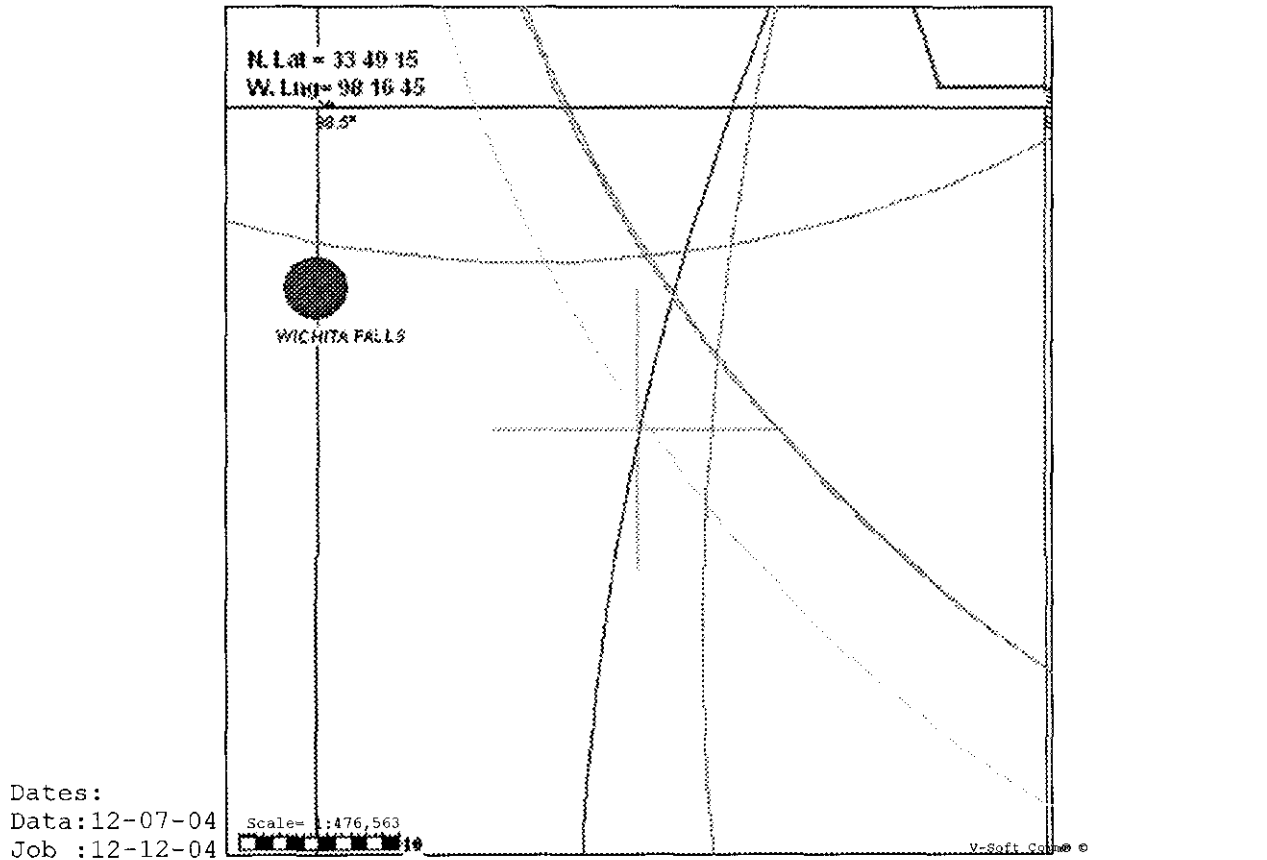
December 13, 2004

Wood Counter

Attachment A

(Channel Study for Channel 248A at Henrietta, Texas)

FM PROSP^(TM) LOCATE STUDY CH 248 A 97.5 MHz



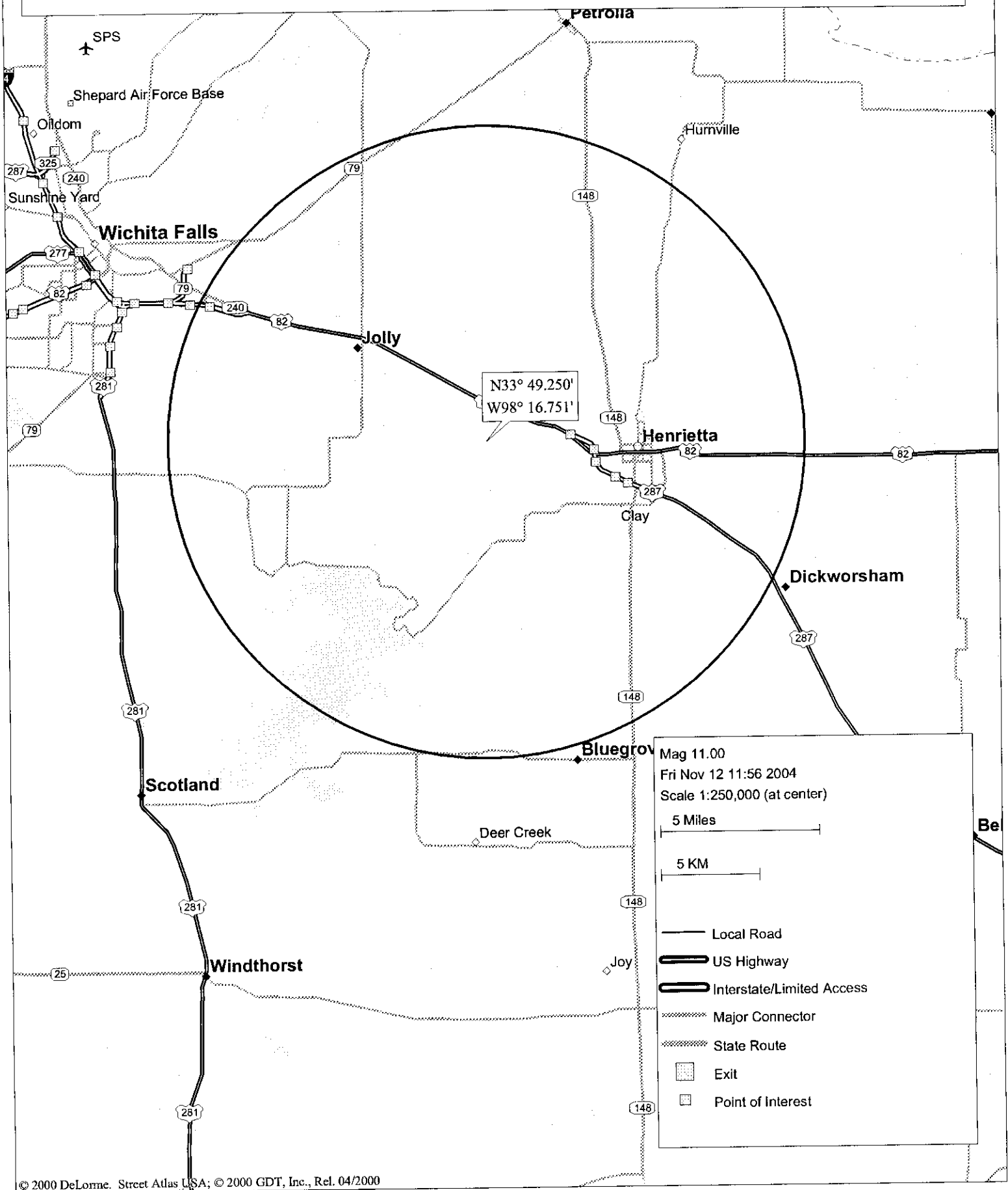
Dates:

Data: 12-07-04

Job : 12-12-04

Call	CH#	Type	Location		D-KM	Azi	FCC	Margin
AL248	248C1	RSV	Archer City	TX	58.57	247.3	200.0	-141.43
RDEL	248C1	DEL	Archer City	TX	58.57	247.3	200.0	-141.43
RADD	248C	ADD	Keller	TX	85.13	119.9	226.0	-140.87
RADD	248C	ADD	Keller	TX	85.13	119.9	226.0	-140.87
RADD	248C1	ADD	Holliday	TX	67.03	252.0	200.0	-132.97
KRZB.C	248C2	CP	Archer City	TX	34.41	277.6	166.0	-131.59
RDEL	248C2	DEL	Archer City	TX	34.41	277.6	166.0	-131.59
RADD	248C2	ADD	Tom Bean	TX	166.20	102.7	166.0	0.20
RDEL	249C3	DEL	Healdton	OK	89.63	54.1	89.0	0.63
RDEL	248C2	DEL	Durant	OK	170.69	94.3	166.0	4.69
RDEL	248C2	DEL	Durant	OK	170.69	94.3	166.0	4.69
KLAK	248C2	LIC	Durant	OK	170.69	94.3	166.0	4.69
KICM	249C3	LIC	Healdton	OK	95.73	51.8	89.0	6.73
KICM.C	249C3	CP	Healdton	OK	95.90	52.0	89.0	6.90
KJMZ	251C1	LIC	Lawton	OK	85.68	355.5	75.0	10.68

Henrietta, TX CH 248A 70 dBu



Attachment B

(Report & Order, DA 03-2468, MB Docket No. 03-116, released July 25, 2003, amending the FM Table of Allotments to reflect 248C2 at Archer City, Texas)

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Before the
Federal Communications Commission
Washington, D.C. 20554 JUL 2.

In the Matter of)

Amendment of Section 73.202(b),)

Table of Allotments,) MB Docket No. 03-116

FM Broadcast Stations.)

(Archer City, Texas))

REPORT AND ORDER
(Proceeding Terminated)

Adopted: July 24, 2003

Released: July 25, 2003

By the Chief, Audio Division:

1. The Audio Division has before it the *Notice of Proposed Rule Making* in this proceeding proposing the substitution of Channel 248C2 for Channel 248C1 at Archer City, Texas.¹ This would conform the FM Table of Allotments to reflect the current authorization of Station KRZB, Channel 248C2, Archer City, Texas (BMPH-199902171B). Texas Grace Communications ("Texas Grace"), permittee of Station KRZB, filed Comments supporting the proposed channel substitution. For the reasons discussed below, we are amending the FM Table of Allotments to specify Channel 248C2 at Archer City, Texas.

Background

2. In the *Report and Order* in MM Docket No. 99-23, we substituted Channel 248C1 for Channel 248C2 at Archer City, Texas, and modified the Texas Grace construction permit for Station KRZB, Archer City, to specify operation on Channel 248C1.² That action became effective on January 18, 2000. That action was also specifically conditioned upon Texas Grace filing an application to implement this upgrade within 90 days of the effective date. Texas Grace has not done so. For this reason, we, on our own motion, issued the *Notice* in this proceeding proposing the substitution of Channel 248C2 for Channel 248C1 at Archer City.

3. In response to the *Notice*, Texas Grace filed Comments supporting the proposed channel substitution and stating that it has no intention of implementing a Channel 248C1 operation at Archer City. As such, continuing to protect a Channel 248C1 allotment at Archer City results in an unwarranted preclusionary impact which unnecessarily frustrates the introduction of additional service to many communities in Texas and Oklahoma. Therefore, we are substituting Channel 248C2 for Channel 248C1 at Archer City.³

¹ 18 FCC Rcd 9498 (Media Bur. 2003).

² *Tipton, Mangum, Eldorado and Granite, Oklahoma, and Archer City, Texas*, 14 FCC Rcd 21161 (M.M. Bur. 1999).

³ The reference coordinates for the Channel 248C2 allotment at Archer City, Texas, are 33-51-40 and 98-38-52.

4. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c) (1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b), and 0.283 of the Commission's Rules, IT IS ORDERED, That effective September 8, 2003, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the community listed below, as follows

<u>City</u>	<u>Channel No.</u>
Archer City, Texas	248C2

5. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED

6. For further information concerning this proceeding, contact Robert Hayne, Media Bureau (202) 418-2177

FEDERAL COMMUNICATION COMMISSION

Peter H. Doyle
Chief, Audio Division
Media Bureau

Attachment C

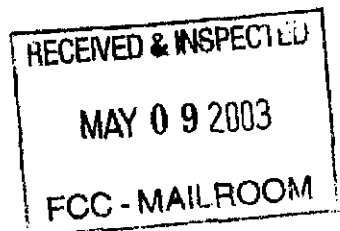
(Report & Order, DA 03-1533, released May 8, 2003,
dismissing the proposed Channel 248C at Keller, Texas)

Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of)
)
Amendment of Section 73.202(b),)
Table of Allotments,)
FM Broadcast Stations.)
(Quanah, Archer City, Converse, Flatonia,)
Georgetown, Ingram, Keller, Knox City,)
Lakeway, Lago Vista, Llano, McQueeney,)
Nolanville, San Antonio, Seymour, Waco and)
Wellington, Texas, and Ardmore, Durant,)
Elk City, Healdton, Lawton and Purcell,)
Oklahoma.)

MM Docket No. 00-148
RM-9939
RM-10198



REPORT AND ORDER
(Proceeding Terminated)

Adopted: May 7, 2003

Released: May 8, 2003

By the Chief, Audio Division:

1. The Audio Division has before it a *Notice of Proposed Rule Making* in the captioned proceeding.¹ Nation Wide Radio Stations filed Comments and Reply Comments. First Broadcasting Company, L.P., Rawhide Radio, L.L.C., Next Media Licensing, Inc., Capstar TX Limited Partnership and Clear Channel Broadcast Licenses, Inc. ("Joint Parties") filed a Counterproposal and Reply Comments. Fritz Broadcasting Co., Inc. and M&M Broadcasters, Ltd. filed Joint Reply Comments. Elgin FM Limited Partnership and Charles Crawford ("Elgin-Crawford") jointly filed Reply Comments and Maurice Salsa filed Reply Comments.² For the reasons discussed below, we are dismissing both the initial proposal for Channel 233C3 at Quanah, Texas, and the Counterproposal.

Background

2. At the request of Nation Wide Radio Stations, the *Notice* in this proceeding proposed the allotment of Channel 233C3 to Quanah, Texas.³ In response to the *Notice*, the Joint Parties filed a Counterproposal involving twenty-two communities in Texas and Oklahoma. In one aspect of this Counterproposal, the Joint Parties propose the substitution of Channel 248C for Channel 248C2 at Durant, Oklahoma, reallocation of Channel 248C to Keller, Texas, and modification of the Station KLAK license to specify operation on Channel 248C at Keller, Texas. In order to accommodate this allotment, the Joint Parties propose three channel substitutions. Included among those substitutions was the

¹ 15 FCC Rcd 15809 (MM Bur. 2000).

² In this proceeding, Texas Grace Communications, Elgin FM Limited Partnership, Charles Crawford, Maurice Salsa, M&M Broadcasters, AM&FM Broadcasters and the Joint Parties have filed additional pleadings. In view of our action dismissing the Joint Parties Counterproposal, it will not be necessary to discuss these pleadings in the context of this *Report and Order* terminating this proceeding.

³ Nation Wide Radio Stations has withdrawn its expression of interest in this allotment. In accordance with Section 1.420(j) of the Rules, Nationwide Radio Stations states that neither it nor any of its principals have been paid or promised any consideration for the withdrawal of its expression of interest in the Quanah allotment.

substitution of Channel 230C1 for Channel 248C1 at Archer City, Texas, and the modification of the Station KRZB permit to specify operation on Channel 230C1. On the basis of our own engineering review, Joint Reply Comments filed by Fritz Broadcasting Co., Inc. and M&M Broadcasters, Ltd., and Reply Comments filed by Maurice Salsa, the proposed transmitter site (33-36-58 and 98-51-42) for the Channel 230C1 allotment at Archer City is short-spaced to a prior-filed application filed by AM & FM Broadcasters, LLC, licensee of Station KICM, Channel 229C2, Krum, Texas, to upgrade to Channel 229C1 (File No. BMPH-20000725AAZ) (the "KICM Class C1 Application").

3. Counterproposals that are in conflict with a previously filed application can be considered if the counterproposal is amended to remove the conflict within 15 days from the date the counterproposal appears on public notice.⁴ The Note also requires a counterproponent to show that it could not have known by exercising due diligence of the pending conflicting FM application. The Joint Parties and AM & FM Broadcasters submitted Reply Comments addressing this issue. Under the agreement, AM & FM Broadcasters agrees to file an application to downgrade Station KICM to Channel 229C2 in the event its application is granted and the Counterproposal is adopted. Pursuant to the agreement, the Joint Parties would "compensate" AM & FM Broadcasters for the downgrade of Station KICM. On August 20, 2001, the staff granted the KICM Class C1 Application.

Discussion

4. We dismiss the Counterproposal because the proposed Archer City Channel 230C1 allotment is short-spaced to the KICM Class C1 construction permit. The Joint Parties have not shown that they could not have known about the then-conflicting KICM Application. Nor have the Joint Parties sought to amend their Counterproposal to protect the proposed Archer City Channel 230C1 allotment.

5. The Commission does not entertain a short-spaced allotment that is contingent on the grant of another application.⁵ This is precisely what the Joint Parties seek. The Archer City allotment is short-spaced to the KICM construction permit and contingent on the staff granting future applications by AM & FM Broadcasters for both a Class C2 construction permit and license. We reject Joint Parties argument that its downgrade proposal complies with the contingent application procedures set forth in Section 73.3517(e) of the Commission's Rules. Section 73.3517(e) permits the simultaneous acceptance of contingent *minor change applications*. It does not authorize the filing of contingent rulemaking petitions. Accordingly, the Counterproposal must be dismissed.

Alternative Proposals

6. The Joint Parties filed an alternative twelve-allotment proposal in anticipation of a staff determination that the Channel 230C1 Archer City allotment is impermissibly short-spaced to the KICM permit. We reject this alternative. A counterproposal must conflict with the proposal set forth in the Notice.⁶ In this instance, none of these proposals conflict with Nation Wide Radio Station's initial proposal for a Channel 233C3 allotment at Quanah. As such, we will not bifurcate the Counterproposal or otherwise consider any of these proposals in the context of this proceeding.⁷

⁴ See Note to Section 73.208 of the Rules; see also *Conflicts Between Applications and Petitions for Rule Making to Amend the FM Table of Allotments*, 8 FCC Rcd 4743 (1993).

⁵ See *Oxford and New Albany, Mississippi*, 3 FCC Rcd 615 (MM Bur. 1988), *recon.* 3 FCC Rcd 6626 (MM Bur. 1988); see also *Cui and Shoot, Texas*, 11 FCC Rcd 16383 (MM Bur. 1996).

⁶ See *Implementation of BC Docket No. 80-90 to Increase the Availability of FM Broadcast Assignments*, 5 FCC Rcd 931, n. 5 (1990).

⁷ See also *Broken Arrow and Bixby, Oklahoma, Coffeyville, Kansas*, 3 FCC Rcd 6507 (MM Bur. 1988).

7. In the event that its Counterproposal can not be favorably entertained, the Joint Parties advance two alternative proposals. The staff no longer entertains alternative proposals set forth in counterproposals.⁸ In any event, each of these alternatives fails to comply with our rules and procedures. The first proposal involves the proposal to reallocate Channel 248C to Keller, Texas, and modify the Station KLAQ license to specify operation on Channel 248C at Keller. A Channel 248C allotment at Keller requires the substitution of Channel 230C1 at Archer City, and thus, cannot be considered. The second alternative only proposes the substitution of Channel 247C1 for Channel 248C at Waco, Texas, reallocation of Channel 247C1 to Lakeway, Texas, and modification of the Station KWTX license to specify operation on Channel 247C1 at Lakeway. The Joint Parties also proposed related channel substitutions necessary to accommodate this reallocation. However, none of these proposed channel substitutions conflict with the underlying Channel 233C3 allotment at Quanah, Texas, proposed in the Notice.

8. Accordingly, **IT IS ORDERED**, That the aforementioned proposal filed by Nation Wide Radio Stations for a Channel 233C3 allotment at Quanah, Texas, **IS DISMISSED**.

9. **IT IS FURTHER ORDERED**, That the aforementioned Counterproposal filed by the Joint Parties **IS DISMISSED**.

10. **IT IS FURTHER ORDERED**, That this proceeding **IS TERMINATED**.

11. For further information concerning this proceeding, contact Robert Hayne, Media Bureau, (202) 418-2177.

FEDERAL COMMUNICATIONS COMMISSION

Peter H. Doyle
Chief, Audio Division
Media Bureau

⁸ See Winslow, Camp Verde, Mayer and Sun City West, Arizona, 16 FCC Rcd 9551 (MM Bur. 2001).

Attachment D

(Withdrawal of petition to allot Channel 248C1 to Holliday,
Texas)

November 10, 2004

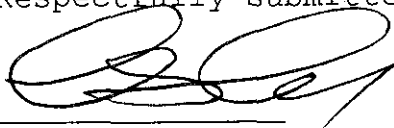
Ms. Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
12th Street Lobby - TW - A325
Washington, D.C. 20554

Re: Motion to Dismiss
Holliday, Texas (Channel 248C1)

Dear Ms. Dortch:

Enclosed is an original and four (4) copies of my
Motion to Dismiss Petition for the new allotment, Channel
248C1, at Holliday, Texas.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Charles Crawford', is written over a horizontal line.

Charles Crawford
4553 Bordeaux Ave.
Dallas, Texas 75205
(214) 520-7077 Tele

HoldH

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Amendment of 73.202 (b)) MB Docket No. _____
Table of Allotments)
FM Broadcast Stations)
(Holliday, Texas)

To: John Karousos, Assistant Chief
Audio Division of the
Media Bureau

Motion to Dismiss Petition

I, Charles Crawford, respectfully move that the FCC dismiss my Petition, filed on or about October 27, 2004, to allot Channel 248C1 to Holliday, Texas. I have decided not to pursue a station at Holliday, Texas at this time.

An appropriate Affidavit, required by 47 CFR 1.420(j), is attached hereto.

Respectfully submitted,



Charles Crawford
4553 Bordeaux Ave.
Dallas, Texas 75205
(214) 520-7077 Tele

November 10, 2004

Ho1DDH

SWORN AFFIDAVIT

Charles Crawford does state under penalty of perjury:

1. My name is Charles Crawford and I filed a Petition for Rulemaking to allot Channel 248C1 to Holliday, Texas, on or about October 27, 2004.
2. It has come to my attention that the petition to allot Channel 298A to Woodson, Texas was not dismissed as I had thought but instead an NPRM was released for Woodson, Texas on November 5, 2004. Therefore, I have decided not to pursue the allotment of Channel 248C1 at Holliday, Texas at this time and have concluded to request that the FCC dismiss my Petition/ expression of interest. I hereby certify that I have not nor will not receive, either directly or indirectly, any money or other consideration in connection with the dismissal of the Petition/ expression of interest. I declare that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed this 10th day of November, 2004.



Charles Crawford

Attachment E

(Memorandum Opinion & Order, FCC 01-317, released October 26, 2001, providing authorization for station KRZB, Channel 248C2 at Archer City, Texas)

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Texas Grace Communications)	File No. BPH-19960201MB,
)	as modified by
Request to Toll the Period to)	BMPH-19990217IB
Construct Unbuilt Station KRZB(FM))	
Archer City, Texas)	
)	
)	

MEMORANDUM OPINION AND ORDER

Adopted: October 26, 2001

Released: October 26, 2001

By the Commission:

1. The Commission has before it a January 16, 2001 Application for Review and amendments thereto filed by Texas Grace Communications ("Texas Grace"), permittee of unbuilt broadcast station KRZB(FM), Archer City, Texas. Texas Grace seeks review of a December 14, 2000 letter decision denying reconsideration of the staff's October 20, 2000 denial of its request to "toll" the KRZB construction period. See 47 C.F.R. § 73.3598(b)(1). On January 23, 2001, Texas Grace filed a second pleading requesting that the Commission also issue an "Emergency Stay" to toll the KRZB construction period during the pendency of this proceeding and any appeal thereof. For the reasons detailed below, we will deny Texas Grace's Application for Review as well as its stay request. However, on our own motion we will waive Section 73.3598 to extend Texas Grace's construction period to provide Texas Grace three years from the release date of this order to complete construction and to file a covering license application. We also provide additional guidance on our broadcast station construction requirements to ensure uniform application of those requirements in the future.

2. Background. Texas Grace's initial permit to serve Olney, Texas on Channel 248C2 (97.5 MHz) was granted on October 7, 1996. On August 7, 1997, Texas Grace filed a petition for rulemaking seeking to modify the FM Table of Allotments to change KRZB's community of license from Olney to Archer City, Texas. The staff adopted this proposal and added a new channel in Archer City on September 23, 1998.¹ That rule change became effective on November 17, 1998. To implement the allotment change, Texas Grace timely filed a minor change application to modify the community of license specified in its permit from Olney to Archer City.² On February 7, 2000 the staff granted Texas Grace's Archer City

¹ *In the Matter of Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Olney, Archer [sic], Denison-Sherman and Azle Texas; and Lawton, Oklahoma)*, MM Docket No. 97-225, 13 FCC Rcd 18920, 18922 (1998) ("Archer City R&O") adopting proposal in 12 FCC Rcd 17512 (1997) ("Archer City Notice").

² However, Texas Grace never filed an application to implement a subsequent amendment of the Commission's FM Table of Allotments, 47 C.F.R. §73.202, which upgraded the Archer City allotment to Channel 248C1. Texas Grace requested that amendment, which became effective on January 18, 2000, as a counterproposal to the request of another party in an additional rulemaking proceeding. *In the Matter of Amendment of Section* (continued...)